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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the Existing)
Television Broadcast Service)
)

MM Docket No. 87-268

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REPLY COMMENTS OF MAX MEDIA PROPERTIES LLC

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Dated: January 24, 1997

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To: The Commission

REPLY COMMENTS OF MAX MEDIA PROPERTIES LLC

Max Media Properties LLC ("Max Media"), by its attorneys, hereby submits its Reply Comments in response to the Commission's Sixth Further Notice of Proposed Rule Making in this proceeding, 11 FCC Rcd 10968 (1996). Max Media supports a plan agreed upon by the Broadcasters' Caucus, Sinclair Broadcast Group, Inc. and other UHF television broadcasters. This plan attempts to resolve the serious and unfair competitive disparities between analog VHF stations relocating to the UHF digital band that are inherent in the digital television ("DTV") allotment plans that have been advanced by the Commission and the Caucus. The details of the plan are to be separately filed today by the Caucus in its Reply Comments.

Max Media's Interest

Max Media is the licensee of UHF television stations at Syracuse, New York, Greenville, North Carolina, Cape Girardeau, Missouri, and Charleston, South Carolina and a VHF station at Dayton, Ohio. Its application to acquire a UHF station at Jacksonville, Texas in the Tyler, Texas market has been approved. Max Media therefore has a definable and considerable interest in the outcome of this proceeding.

SUPPORT FOR THE CONSENSUS PLAN

The problems associated with the draft DTV Table of Allotments as presented both by the Federal Communications Commission and the Caucus are presented in the Reply Comments of Sinclair, which are expected to be filed today. Max Media agrees that the FCC should attempt to replicate the relative competitive posture of UHF stations vis-a-vis VHF stations in the present analog environment.

Max Media supports the consensus plan as presented by the Caucus in its Reply Comments. The plan is substantially similar to the "replication" principle on which the FCC and Caucus tables were developed and allows for the expeditions introduction of DTV service.

In adopting a final DTV Order the FCC should acknowledge and support the ability of all stations to improve their indoor antenna reception by increasing their overall power beyond the powers specified in the table and target such power within their current Grade A service area. This should be conditioned on no new interference being caused to other NTSC stations or DTV stations operating on the same or first adjacent channel.

The FCC should adopt and implement the principle of "maximization" that the Caucus has designed and recommended to the FCC. Under this maximization principle, at least 700 of the existing UHF stations would be able to increase their power, sometimes significantly.

Max Media supports the plan to allow U-to-U stations to double their power from that listed in the Modified Table for the Initial

two-year period that begins with the FCC's adoption of the allotment/assignment table, provided that no new material interference is caused to NTSC stations. At the end of two years, the FCC would determine, taking into account the field data to be developed and submitted by the broadcast industry and interference concerns, whether and how to adjust the U-to-U power levels in the future so as to replicate the relative competitive posture of U-to-U's and V-to-U's in the DTV environment. Individualized station-by-station solutions could also be accommodated at that time.

Max Media supports the implementation of a phased-in approach to power with respect to the V-to-U stations for a two-year period from the adoption of an allotment/assignment table. Under this approach, V-to-U stations would be licensed at the powers specified in the Modified Table, but they would operate up to 500 kw for this two-year period. Thereafter V-to-U stations would immediately implement their full licensed power subject to any eventual FCC action pursuant to 111(5). During this first two-year phase, all stations would have protected service contours out to their replicated coverage area, notwithstanding that they would not be operating at full facilities. Indeed this principle should apply throughout the transition period.

In order to enable the collection of field data, a certain number of V-to-U stations participating in the testing process will be permitted to operate at more than 500 kw, up to the power levels specified in the Modified Table. for the initial two-year period.

At the conclusion of the two-year period, these stations would be treated a all other V-to-U stations.

The FCC should recognize the importance of finding solutions to the problems outlined above. Should the field tests show that maximization will not achieve maximization, the FCC should adopt appropriate solutions. Such solutions could include power increases for the U-to-U's, power decreases for the V-to-U's and individual DTV station facility changes and the assignment of unassigned channels if available. Nothing the FCC does should interfere with the ability of stations to increase their coverage areas according to the maximization principle.

Conclusion

The television industry acknowledges that a DTV table of allotment based solely on replication of coverage will exacerbate the competitive advantages that analog VHF broadcasters already enjoy over their UHF counterparts. Max Media, Sinclair, the Caucus and other UHF broadcasters have agreed upon an approach to resolve this inequity. This approach provides for an efficient and prompt introduction of DTV in the United States.

Respectfully submitted,

MAX MEDIA PROPERTIES LLC

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